

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

Plaintiff, a California prisoner incarcerated at San Quentin State Prison in San Quentin, California, has filed this civil rights action under 42 U.S.C. § 1983 against officers from the Modesto Sheriff's Department regarding the use of excessive force during his arrest. Modesto, California is located within Stanislaus County, which is within the venue of the United States District Court for the Eastern District of California. Plaintiff alleges that the Defendants work in Stanislaus County, California.

When jurisdiction is not founded solely on diversity, venue is proper in the district in which (1) any defendant resides, if all of the defendants reside in the same state, (2) the district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought. 28 U.S.C. § 1331(b). Where a case is filed in the wrong venue, the district court has the discretion either to dismiss the case or transfer it to the proper federal court “in the interest of justice.” 28 U.S.C. § 1406(a). Venue may be raised by the court sua sponte where the defendant has not yet filed a responsive pleading and the time for doing so has not run. *Costlow v. Weeks*, 790

1 F.2d 1486, 1488 (9th Cir. 1986).

2 Plaintiff brings his claims against Defendants who reside in Stanislaus County,  
3 within the venue of the Eastern District of California. *See* 28 U.S.C. § 84. Accordingly,  
4 IT IS ORDERED in the interest of justice, and pursuant to 28 U.S.C. § 1406(a), that this  
5 action be TRANSFERRED to the United States District Court for the Eastern District of  
6 California. In light of the transfer, the Court will not resolve Petitioner's pending motion  
7 to proceed *in forma pauperis* (docket no 2). The Clerk of the Court shall transfer this  
8 matter forthwith and terminate docket number 2 from this Court's docket.

9 IT IS SO ORDERED.

10 DATED:August 25, 2009

  
11 JEFFREY S. WHITE  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

## RONNIE LEE MOODY,

Case Number: CV09-03747 JSW

Plaintiff,

## **CERTIFICATE OF SERVICE**

V.

## OFFICER GLEN GRAVES et al,

**Defendant.**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 25, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Ronnie Lee Moody T54036  
San Quentin State Prison  
I AC 645  
San Quentin, CA 94964

Dated: August 25, 2009

*Jennifer Ottolini*  
Richard W. Wieking, Clerk  
By: Jennifer Ottolini, Deputy Clerk

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